



Docket No.: M4065.0376/P376  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
H. Daniel Dulman et al.

Application No.: 09/770,385

Group Art Unit: 1756

Filed: January 29, 2001

Examiner: S. Mohamedulla

For: METHOD FOR ALIGNING A CONTACT  
OR A LINE TO ADJACENT PHASE-  
SHIFTER ON A MASK

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REQUEST FOR RECONSIDERATION

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action dated July 30, 2003 (Paper No. 9), finally rejecting claim 19, Applicants submit the following remarks.

REMARKS

Applicants gratefully acknowledge the Examiner's statement that claims 1-18, 21-27 and 30-35 are allowed. Claims 1-19, 21-27 and 30-35 are pending in this case.

Claim 19 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Chao et al. (U.S. Patent No. 5,747,196) and also as being anticipated by DeMarco et al.

(U.S. Patent No. 5,633,103). Applicants respectfully traverse the rejections and request reconsideration.

Claim 19 is a product-by-process claim reciting a mask formed by the method of claim 1. According to MPEP § 2113, “the structure implied by the process steps should be considered when assessing the patentability of product-by-process claims over the prior art, especially . . . where the manufacturing process steps would be expected to impart distinctive structural characteristics to the final product.” [Emphasis added.]

Not only are the manufacturing process steps of claim 19 expected to impart distinctive structural characteristics to the final product (i.e., a mask), but at least some of those distinctive structural characteristics are recited in claim 19.

For example, claim 19 recites “a first layer of material over a substrate.” [Emphasis added.] Claim 19 also recites “an opaque layer overlying said first layer of material, said opaque layer having at least one opening therein filled with a first resist material, said first resist material residing over said first layer of material and defining areas of said first layer of material which are to be removed.” [Emphasis added.]

While the Office Action acknowledges that claim 19 recites a mask with an opaque layer overlying a first layer of material over a substrate (Office Action at paragraph 5), the Office Action fails to mention the other structural features of claim 19, as outlined above. For example, the Office Action fails to mention that claim 19 also recites that the opaque layer has at least one opening filled with a first resist material, and that the first resist material resides over the first layer of material and defines areas of the first layer of material which are to be removed. Further, the Office Action already acknowledges that the prior art, including both Chao and DeMarco, does not teach or

suggest these limitations (Office Action at paragraph 4). At least for these reasons, Applicants respectfully submit that the rejection of claim 19 is improper and should be withdrawn.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections of the claims and to pass this application to issue.

Dated: October 28, 2003

Respectfully submitted,

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